Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

October Term, 1997

GERTRUDE GOROD

Petitioner,

v.

DEPARTMENT OF EMPLOYMENT AND TRAINING
NILS NORDBERG
ANNA M. MCKEON
JOHN MARRA
DOREEN GATELY *Respondents.*

Petition For Writ Of Certiorari

To The First Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

GERTRUDE GOROD
P.O. BOX 856
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57 pp

BEST AVAILABLE COPY

ISSUES PRESENTED

I.

Should this Court grant Certiorari because the petitioner was discriminated against because of her age, sex, and religion when she was denied promotions.

II.

Should this Court grant Certiorari because the petitioner was exposed to religious slurs.

III.

Should this Court grant Certiorari because the petitioner was discriminated against because of her age, sex, and religion when she was not reimbursed for traveling expenses, while all other employees in her department were reimbursed.

IV.

Should this Court grant Certiorari because petitioner was discriminated against because of her age, sex and religion when her time sheets were altered and she was not paid for hours she worked, not paid for vacation time, and not paid for sick time.

V.

Should this Court grant Certiorari because respondent, Doreen Gately threw a fist in the petitioner's face, threaten her life and made

slanderous religious remarks to her. Petitioner was forced to report to work with a hired body guard.

VI.

Should this Court grant Certiorari because after filing a charge with the Equal Employment Opportunity Commission, Petitioner suffered retaliation. Her job was taken away from her and given to a male younger than the petitioner and not of the same religion.

VII.

Should this Court grant Certiorari because petitioner was discriminated against and isolated from all other employees and placed in a room without any windows.

VIII.

Should this Court grant Certiorari because respondents' attorney Lucy A. Wall committed perjury in her affidavit, violated the Masschusetts Canon Rules and violated the Attorney's Oath by telling falsehoods to the court.

IX.

Should this Court Grant Certiorari because the inferior court erred in law when it missed its mark in dismissing the action and dismissing the defendants.

TABLE OF CONTENTS

	Page
OPINIONS BELOW.....	1
JURISDICTION.....	1
UNITED STATES PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	2
ARGUMENT.....	8
REASONS FOR GRANTING THE PETITION.....	8
I. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECAUSE OF HER AGE, SEX, AND RELIGION WHEN SHE WAS DENIED PROMOTIONS.	8
II. CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONER WAS EXPOSED TO RELIGIOUS SLURS.....	11
III. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECAUSE OF HER AGE, SEX AND RELIGION WHEN SHE WAS NOT REIMBURSED FOR HER TRAVELING EXPENSES.....	12
IV. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECAUSE OF HER AGE, SEX AND RELIGION WHEN HER TIME SHEETS WERE ALTERED AND SHE WAS NOT PAID FOR HOURS SHE WORKED, NOT PAID FOR VACATION TIME AND NOT PAID FOR SICK TIME.....	13

TABLE OF CONTENTS
(continued)

Page

V. CERTIORARI SHOULD BE GRANTED BECAUSE THE RESPONDENT, DOREEN GATELY THREW A FIST IN THE PETITIONER'S FACE, THREATEN HER LIFE AND MADE SLANDEROUS RELIGIOUS REMARKS TO HER COMPELLING HER TO REPORT TO WORK WITH A HIRED BODY GUARD..... 16

VI. CERTIORARI SHOULD BE GRANTED BECAUSE AFTER FILING A CHARGE WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PETITIONER SUFFERED RETALIATION. HER JOB WAS TAKEN AWAY FROM HER AND GIVEN TO A MALE YOUNGER THAN HER AND NOT OF THE SAME RELIGION AS PETITIONER. 18

VII. CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONER WAS DISCRIMINATED AGAINST AND ISOLATED FROM ALL OTHER EMPLOYEES BECAUSE OF HER AGE, SEX AND RELIGION..... 19

VIII. CERTIORARI SHOULD BE GRANTED BECAUSE ATTORNEY LUCY A. WALL COMMITTED PERJURY IN HER AFFIDAVIT, VIOLATED THE CANON RULES AND VIOLATED THE ATTORNEY'S OATH BY TELLING FALSEHOODS TO THE COURT.... 19

IX. CERTIORARI SHOULD BE GRANTED BECAUSE THE INFERIOR COURT ERRED IN LAW WHEN IT MISSED ITS MARK IN DISMISSING THE ACTION AND DISMISSING THE DEFENDANTS..... 21

CONCLUSION..... 25

TABLE OF AUTHORITIES

cases

	Page
BRADFORD V. SLOAM PAPER CO 383 F. Supp 1157 (N.D. Als 1974).....	24
EECO V. KALLIER PHILIPS, ROSS, Inc. 401 F Supp. 66 (S.D. N.Y. 1975).....	24
EVANS V. SHERATION PARK HOTEL, ET AL 503 F 2d 177.....	23
FRANCIS V. AMERICAN TEL & TEL CO. 55 F.R.D 202 (D.D.C. 1972).....	24
GIFFORD V. DIAGNOSTICS, ET AL 458 F. Supp. 463.....	23
HENSON V. CITY OF DUNDEE 682 F 2d 897, 910.....	24
PETTWAY V. AMERICAN CASE IRON PIPE CO., 411 F. 2d 998 (5th Cir 1989).....	24
ROGER ROGERS v. EEOC 454 F 2d 234, 238.....	24
VALENTINE V. MUSEUM OF MODERN ART 29F 3d 47, 48 (2d Cir. 1994).....	22

OTHER

Page

FEDERAL

CIVIL RIGHTS ACT OF 1964
§ 701 et seq as amended
42 U.S.C.A. § 200e et seq..... 25

FEDERAL RULES OF CIVIL PROCEDURE
RULE 30(d)..... 20

FEDERAL RULES OF CIVIL PROCEDURE
RULE 32..... 20

STATE

CANON RULES.....7,19,21

MASSACHUSETTS GENERAL LAWS
221 SECTION 38
(ATTORNEYS' OATH..... 7,21

Petitioner, Gertrude Gorod, respectfully prays that a Writ of Certiorari will be issued to review the decision of the United States Appeals Court for the First Circuit and grant the following relief: (1) the petitioner requests the court remand her action to be scheduled for trial by jury. (2) She is to be paid her vacation monies. (3) She is to be paid her sick leave monies. (4) She is to be paid her traveling expenses monies. (5) She is to be paid all monies that she worked and was not paid for due to the fact that her time sheets were altered by respondent, Doreen Gately. and any other relief the Court deems appropriate.

OPINIONS BELOW

November 27, 1996, Robert B. Collings dismissed the petitioner's action (app. p. 25).

October 9, 1997, the United States Court of Appeals For The First Circuit dismissed petitioner's action (app. P. 23).

JURISDICTION

October 9, 1997, the United States Court of Appeals For the First Circuit dismissed petitioner's action.

This petition is filed within the 90 days of the Appeals Court's decision.

This Court's jurisdiction is invoked under

28 United States Code.

UNITED STATES PROVISIONS INVOLVED

Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e and the Age Discrimination in Employment Act (ADEA 29 U.S.C. § 621 et seq.

STATEMENT OF THE CASE

Petitioner, Gertrude Gorod, was employed with the Department of Employment and Training, (formerly the Division of Employment and Security) for approximately thirty years.

The petitioner was discriminated against from the years 1963 through 1974, because she was a woman.

There were two Civil Service lists for promotions. One Civil Service list was for men, and other separate list was for the women, therefore, since the men's list have to be used first women were denied promotions.

Gorod received no promotions for approximately eleven years because of this discriminatory practices.

In 1972, the ban was lifted and there was only one Civil Service List and appointments were made on the person's mark not their sex.

In 1972, Gorod passed her Civil Service Examination for the position of Claims Adjuster

with a mark of 94% and she was appointed to the position of Claims Adjuster.

There were no Civil Service Promotion Examinations until 1984.

In 1984, Gorod passed her Civil Service Examination for the position of Disputed Claims Adjuster, which was the next step in her career ladder with a mark of 91% (app. p. 7) second on the list. Gorod was appointed to the position of Disputed Claim Adjuster.

There were no Civil Service Promotion Examinations from 1984 until the petitioner was discharged in 1992.

The only means of getting promotions was biding on jobs that were posted.

Gorod had bid on two hundred and seventy three jobs and although she was qualified for the jobs she bid on, the jobs were given to males younger than Gorod and non-jewish. In addition, these individuals were not qualified, some did not even work in the agency but were hired from the street.

Petitioner received a letter with the word Jew on it.

Gorod was relocating to the Central Region, therefore, since there was an opening for a Disputed Claims Adjuster in that area Gorod requested a transferred to that area. Although it is agency policy that transfers are to be honored first, instead Gorod received a letter stating the position was filled by Robert Boronski who best matched the needs of the agency (app. p. 13).

Robert Boronski did not pass the Disputed Claims Adjuster's Examination (app. p. 7).

Gorod appalled by her continuing discrimination because of her age, sex and religion filed a Complaint of Discrimination because of her age, sex and religion with the Equal Employment Opportunity Commission.

After petitioner filed her Complaint with the Equal Employment Opportunity Commission, she received retaliation treatment from the Department of Employment and Training.

Gorod's job was taken away from her and given to Robert Hazen, a male, younger than the petitioner and is non-jewish.

Petitioner was removed from the work schedules, assigned to a backroom (closet) away from all other employees, the room had no windows, and without any work assignments.

Petitioner was not paid vacation monies when she was on vacation, she was not paid sick leave when she was out sick, and she was not paid for travel expenses which were owed to her before respondent Doreen Gately took her job away.

Respondent Doreen Gately altered her time sheets, therefore, she was not paid for hours that she worked.

Respondent Gately threw a fist in the petitioner's face and threaten her life and made slanderous religious remarks to her.

Petitioner's tires were slashed and dead birds were placed on her house walk.

Gorod reported these violent acts of Gately

to respondents Nils Nordberg, Anna McKeon and John Marra, however, they refused to take any action to resolve the problem.

Gorod was compelled to report to work accompanied by a body guard paid by Gorod.

Respondents Gately and McKeon would not allow Gorod's body guard to continue to accompany her to work, therefore, Gorod could no longer work in this stressful environment and medical evidence was submitted to the employer in which a health provider advised the petitioner to stay out of work until the situation was resolved (app. p. 21).

In, June 1992, Gorod was discharge although Gorod had vacation pay in the amount of $5,600.00 due her, along with sick pay, travel expenses, and hours she worked and her time sheets were altered taking monies away from the petitioner.

Gorod contacted both respondents, John Marra and Anna McKeon for her monies that were due her, their response was,"you're not going to get your money, you won't have money to hire an attorney to sue us" and laughed.

Gorod contacted respondent, Nils Nordberg to obtain her monies, there was no response from him.

Respondents admit in their Answer to Petitioner's Complaint "Gorod has not been paid at this time".

Gorod filed her Complaint November 9, 1993, it has been over four years and still the petitioner has not received her monies.

Gorod was discriminated against because of

her age, and religion because all employees who were discharged obtained all their vacation monies immediately.

The action was assigned to Judge Wolf, during a conference Judge Wolf established the time for discovery cut-off October 13, 1995.

Judge Wolf indicated that he had a busy calender and that the case would not be heard for some time. He suggested that if we agreed to a magistrate the case could be tried sooner.

Both Gorod and respondents' first attorney agreed to the magistrate.

The case was turned over to Magistrate Collings, who dismissed respondents Nordberg, McKeon, Marra and Gately from the action.

He scheduled discovery to be completed by November 30, 1995.

November 29, 1995, Gorod appeared for her deposition.

Gorod was unable to obtain an attorney to represent her at the taking of her deposition, therefore, pursuant to Federal Rules of Civil Procedure, Rule 32, Gorod made the following statement at the start of the deposition: "Pursuant to Federal Rules of Civil Procedure, Rule 32, I made a diligent search to obtain counsel to represent me at the taking of this deposition. However, I was unable to obtain counsel for this deposition, therefore, this deposition cannot be used against me".

The respondents' second attorney Lucy A. Wall continued to take the petitioner's deposition,

than after a fashion she stopped the deposition and evicted Gorod from further taking her deposition and ordered her to get a lawyer.

Ms. Wall acted in bad faith, committed perjury in her affidavit, violated the Canon Rules by engaging in conduct involving dishonesty, fraud, deceit, and misrepresented the facts along with obstruction of justice.

Ms. Wall violated the Massachusetts Attorney's Oath when she told falsehoods to the court.

Gorod filed A Motion For Sanctions against Lucy A. Wall, Motion was denied by Magistrate Collings.

Petitioner has been seeking work since the time she was fired, however, she had been unsucessful.

The Department of Employment and Training has given out false information to prospective employers.

Petitioner has filled out applications naming her supervisor as Doreen Gately which was the case.

After years of seeking work and filling out applications the petitioner was informed by an employer that the Department of Employment and Training has given out false information.

Dempartment of Empoloyment and Training informs the employers that Mary Stanton was the petitioner's supervisor, which is not true.

Therefore, since petitioner's application is not in agreement with the information obtained from the Department of Employment and Training petitioner has been unable to obtain work.

Magistrate Collings dismissed the action. Now the issues are before this Honorable court.

ARGUMENT

REASONS FOR GRANTING THE PETITION

I. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECAUSE OF HER AGE, SEX, AND RELIGION WHEN SHE WAS DENIED PROMOTIONS

Petitioner was a victim of previous discrimination because of her sex.

There were two lists for promotions one list was only for men and the other list was only for women.

The men's list had to be exhausted before the women's list could be used to make promotions, therefore, it was humanly impossible for a women to get a promotion.

Petitioner received no promotions for approximately eleven years because of this discriminatory practices.

In 1972, Petitioner passed her Civil Service Examination for the position of Claims Adjuster with a mark of 94% and she was appointed to that position.

Petitioner passed her Civl Service Examination of Disputed Claims Adjuster, which was the next step in her career ladder with a mark of 91% (app. p. 7) and she was appointed to the position of Disputed Claims Adjuster.

There were no Civil Service Promotion Exam-

inations that the petitioner could take, since the year 1985, and the only means of getting a promotion was biding on jobs that were posted.

Petitioner bid on two hundred and seventy three jobs all were the next step in her career ladder, although she was qualified for the jobs she never received a promotion.

Petitioner received excellent job evaluations (app. p. 5).

Petitioner was honored at an Award Breakfast for her work (app. p. 6).

Ninety five per cent of the promotions were given to males younger than the petitioner, they were not the same religion as the petitioner, and they did not have the excellent qualifications that the petitioner possessed.

The 5% of the promotions given to women were younger than the petitioner, they were not of the same religion as the petitioner and lacked the qualifications and skills.

Agency policy was that one requesting a transfer to another area, the request had preference and had to be filled by the person requesting the transfer.

In 1989, petitioner was relocating to the Central Region, therefore, she place her request for a transfer in that region.

There was an opening for a Disputed Claims Adjuster's position in that area.

Although, it is the policy that transfers are to be honored first, instead petitioner received a letter stating "the position was filled by Robert

Boronski who best matched the needs of the agancy" (app. p. 13).

The position was the same as the petitioner held, moreover, petitioner was merely requesting a transfer and had passed the Disputed Claims Ajuster's Examination with a mark of 91% and Robert Boronski did not pass the Disputed Claims Examination (app. p. 7).

Petitioner was discriminated against because of her age, sex and religion when she was not given the transfer to the Central Region.

Mr. Boronski is a male, younger than the petitioner and not of the same religion as the petitioner.

November 21, 1989, Robert Boronski was promoted to Disputed Claims Adjuster and in February 27, 1990, he was again promoted to Review Examiner I instead of the petitioner.

Petitioner from the time she was appointed to Disputed Claims Adjuster until she was discharged she did not receive a promotion which is a time frame of seven years.

The petitioner is the only one in the agency who bid on jobs that did not receive a promotion.

II. CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONER WAS EXPOSED TO RELIGIOUS SLURS

February 27, 1990, the petitioner received a rejection letter from Penny Outlaw informing her that Robert Boronski, Dorothy Sperounis who was only a Claims Adjuster and did not pass the Disputed Claims Adjuster's Examination (app. p. 7), Kathleen Griffin, who was only a Claims Adjuster and did not pass the Disputed Claims Ajuster's Examination (app. p. 7) and Della Penna who was hired off the street were promoted two steps in the career ladder to Review Examiner, while petitioner was not promoted which was one step in her career ladder.

This letter from Ms. Outlaw had the word "Jew" written on the last fold of the paper, inside the sealed envelope.

The word "Jew" was the first thing the petitioner saw when she opened the letter of rejection (App. P. 10).

Petitioner appalled by the religious slur contacted Sally Greenberg, Civil Rights Counsel of the Anti-Defamation League of B'nai B'rith.

Ms. Greenberg corresponded with the commissioner informing him that a complete investigation seems necessary (app.p.11).

There was no investigation into the religious slur on the letter, however, the petitioner was informed that the next opening of a Review Exaiminer I, she would be appointed.

This was not the case petitioner never

received the promotion that she was promised.

The petitioner constantly received religious slurs from respondent Doreen Gately along with life threats from her.

III. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECASE OF HER AGE, SEX AND RELIGION WHEN SHE WAS NOT REIMBURSED FOR HER TRAVELING EXPENSES

Petitioner's job as a Disputed Claims Adjuster required her to travel to all Department of Employment and Training Offices throughout the Commonwealth of Massachusetts.

Her duties were to train the Claims Adjusters, evaluate the Claims Adjusters' work, make decisions on all complex unemployment claims and investigate labor disputes along with other related duties.

Petitioner submitted her travel expense voucher for the month of July 1989, in the amount of $56.98 (app. p. 17), however, she was not paid.

Petitioner submitted her travel expense voucher for the month of August 1989 in the amount of $209.44 (app. p. 17), however, she was not paid.

Petitioner submitted travel expense voucher for the month of September 1989, in the amount of $117.92(app. p. 18), however, she was not paid.

Petitioner submitted her travel expense voucher for the month of October, 1989 in the amount of $173.36 (app. p.18), however, she was not paid.

Petitioner submitted her travel expense voucher for the month of November 1989, in the

amount of $14.52 (app. p.19), however, she was not paid.

Petitioner submitted her travel expense voucher for the month of June 1992 in the amount of $59.40 (app. p. 19), petitioner's voucher was altered after the petitioner signed it and she was only paid $47.52.

Petitioner is the only employee in the complete agency that was not paid for necessary business travel.

She is the only employee in the complete agency that had her travel expense vouchers altered,

Agency policy is that documents cannot be changed after they are signed by the employee. In the event a document has to be changed it is returned to the employee to make any changes.

IV. CERTIORARI SHOULD BE GRANTED BECAUSE THE PETITIONER WAS DISCRIMINATED AGAINST BECAUSE OF HER AGE, SEX AND RELIGION WHEN HER TIME SHEETS WERE ALTERED AND SHE WAS NOT PAID FOR HOURS SHE WORKED, NOT PAID FOR VACATION TIME AND NOT PAID FOR SICK TIME

Commissioner Nils Nordberg invited the petitioner to attend the Celebration of the Retirees on June 19, 1992 at 3:P.M -5 P.M. Hurley Building 6th floor Cafeteria (app. p. 8).

Over 500 employees took part in the farewell party for the retirees (app. p.9).

Petitioner was the only one in the Depart-

ment of Employment & Training not paid for time she attended the party for the retirees.

June 19, 1992, the date of the party, petitioner worked six hours and attended the party for an hour and half, however, her time sheet was altered after it was signed by the petitioner to read four hours leave without pay (app. p. 14) Gorod was not aware of this change until her pay check was not for the full week that she worked.

The week ending June 27, 1992, the petitioner worked thirty hours June 22nd was a vacation day.

After the petitioner signed the time sheet and gave it to respondent, Doreen Gately the vacation time was changed to sick time. June 24th was changed to leave without pay for a half hour. June 25th was changed to leave without pay for four and half hours. June 26th was changed to leave without pay for four hours (app. p. 15).

The week ending July 4, 1992, she was out on sick leave for eleven hours and a half, however, petitioner's time sheet was altered and she did not receive a check for that week.

Although petitioner was out on sick leave respondent Doreen Gately altered petitioner's time sheet in such away that the check that she received was for sixty-seven cents (app. p.20).

Petitioner reported the altering of her time sheets to respondents Nils Nordberg, Anna McKeon and John Marra, however, it was to no avail.

Petitioner reported altering her time sheets

to payroll department, however, it was fruitless.

The payroll department informed the petitioner that Doreen Gately was getting paid a great deal of overtime pay, therefore, to stay within her department budget, she may be taking the money away from the petitioner.

Since the petitioner was not getting paid for the time she was working, petitioner lost her home.

Agency policy is that one can not use someone else's sick leave.

However, when Arthur Lindholm was out sick he used the sick leave of Mr. Campbell's and Thomas O'Donnell's.

Petitioner was discriminated against because of her age, sex and religion when she was out sick and had her own sick time, her time sheets were, altered to read leave without pay, while on the other hand Arthur Lindholm who is forty years of age, younger than the petitioner, a male, and non-jewish is out sick and he's paid his weekly checks.

Petitioner when she was out sick and had her own sick time was issued a check for sixty-seven cents (app. p. 20).

In, June 1992, petitioner was discharged, although she had vacation time due to her in the amount of $5,600.00, in addition to sick leave time, however, she was not paid these monies.

Petitioner was discriminated against because she is the only one in the agency who was not paid vacation pay and sick leave when fired.

Petitioner contacted both respondents Anna McKeon and John Marra for her vacation and sick leave monies. their response was "you're not going to get your money, you won't have any money to hire an attorney to sue us" and laughed.

Petitioner contacted respondent, Nils Nordberg to obtain her monies, there was no response from him.

In respondents' answer to petitioner's Complaint their first attorney admitted that petitioner had not been paid yet.

Petitioner filed her Complaint November 9, 1993, it has been over four years and the petitioner has still not been paid her monies.

Petitioner was discriminated against because of her age, religion due to the fact, that all employees who were discharged obtained all their vacation and sick leave monies immediately.

V. CERTIORARI SHOULD BE GRANTED BECAUSE THE RESPONDENT DOREEN GATELY THREW A FIST IN THE PETITIONER'S FACE, THREATEN HER LIFE AND MADE SLANDEROUS RELIGIOUS REMARKS TO HER COMPELLING HER TO REPORT TO WORK WITH A HIRED BODY GUARD

Respondent, Doreen Gately threaten and threw a fist in the petitioner's face, made life threats to the petitioner on the telephone. She continuously made slanderous religious remarks to the petitioner.

Petitioner reported respondent Gately's acts to respondents, Nordberg, Marra, and McKeon, however, there was no response from them and no action was taken to protect the petitioner.

Petitioner's automobile tires were slashed and dead birds were placed on her house walk.

The situation was getting very serious and the petitioner was not receiving any help from the Department of Employment and Training, compelling her to work accompanied by a body guard paid by the petitioner.

Respondents Gately and McKeon would not allow the petitioner's body guard to continue to accompany her to work, therefore, because petitioner's health was seriously being affected her health provider advised her not to work in this stressful environment (app. p. 21).

Petitioner took all steps available to her to correct the matter, it was to no avail.

Petitioner submitted medical evidence to Mr. Sullivan informing him that she could not work in this stress environment and that she would be on Worker's Compensation until the matter was resolved. There was no response from Mr. Sullivan.

Petitioner was discriminated against because when there was a religious problem in another office the people making the religious slurs were fired not the person who was receiving the religious slurs.

VI. CERTIORARI SHOULD BE GRANTED BECAUSE AFTER FILING A CHARGE WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PETITIONER SUFFERED RETALIATION. HER JOB WAS TAKEN AWAY FROM HER AND GIVEN TO A MALE YOUNGER THAN HER AND NOT OF THE SAME RELIGION AS PETITTIONER

Petitioner appalled by her continuing discrimination because of her age, sex and religion, not given the promotion to Review Examiner I, which she was promised, filed a Complaint of Discrimination with the Equal Employment Opportunity Commission.

After the petitioner filed her Complaint with the Equal Employment Opportunity Commission, she received retaliation treatment from the Department of Employment and Training, Nils Nordberg, Anna McKeon, John Marra and Doreen Gately.

Petitioner's job was taken away from her and given to Robert Hazen, who is a male, younger than the petitioner and is non-jewish.

Petitioner was removed from the work schedules she was assigned to a backroom (closet) without any windows and isolated away from all other employees without any work assignments.

Petitioner asked the respondent, Gately "why her job was taken away from her?" Respondent Gately said, "I want a man in your job, your too old, I worked with Bob, I like him and I want him instead of you".

Petitioner took all steps that were available to her to obtain her job back it was to no avail.

VII. CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONER WAS DISCRIMINATED AGAINST AND ISOLATED FROM ALL OTHER EMPLOYEES BECAUSE OF HER AGE,SEX AND RELIGION.

Petitioner was removed from her work schedules and assigned to a backroom (closet) without any windows and isolated away from all other employees without any work assignments.

No other employees in the Department of Employment and Training was isolated away from all other employees and assigned to work in a closet without any work to do.

In an agency who employes over 500 employees there were only eleven jewish employees employed from the years 1963 thru June of 1992.

VIII. CERTIORARI SHOULD BE GRANTED BECAUSE ATTORNEY LUCY A. WALL COMMITTED PERJURY IN HER AFFIDAVIT, VIOLATED THE CANON RULES AND VIOLATED THE ATTORNEY'S OATH BY TELLING FALSEHOODS TO THE COURT

Canon Disciplinary Rules: Canon I

DRI-102 MISCONDUCT (a) lawyer shall not: (4) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. (5) Engage in conduct that is prejudicial to the administration of justice.

Massachusetts Attorney's Oath III M.G.L. 221 section 38: "You (your name) solemnly swear that you will do no falsehood, nor consent to the doing in any in Court".

November 20, 1995, petitioner appeared before Isolde Von Handorf-Choquet, a Registered Professional Reporter to have her deposition taken.

In, the opening of the deposition pursuant to Federal Rules of Civil Procedure Rule 32, petitioner made the following statement: "I made a diligent search to obtain counsel to represent me at the taking of this deposition. However, I was unable to obtain counsel for this deposition, therefore this deposition cannot be used against me."

The deposition continued, however, approximately forty-five minutes later Ms. Wall stopped the deposition and ordered the petitioner to get an attorney, evicted her from the building. Ms. Wall overstepped her bounds when she stopped the deposition and ordered the petitioner to obtain an attorney.

Pursuant to Federal Rules of Civil Procedure Rule 30(d) deposition terminated if the examination is conducted in bad faith or in such a manner as to annoy, embarrass, or oppress the deponent. These issues were not the case.

Ms. Wall told a falsehood to the court saying that the petitioner did not appear for a deposition.

Ms. Wall also told a falsehood that she did not get documents from the petitioner, is also not the truth.

Ms. Wall in her affidavit which was signed under the penalties of perjury, committed perjury. Ms. Wall committed perjury by making the following false statements in her affidavit: "Plaintiff's husband,

Mr. Gorod called and left the message". This statement is false as there is no Mr. Gorod. "A man called ....the man refused to let counsel for the Commonwealth speak to the plaintiff" this statement is false. Plaintiff was not with individual that made the telephone call.

Counsel for the Commonwealth asked the plaintiff a series of questions relevant to this issue. Plaintiff claimed she had called at least ten attorneys...." Question: Did you make more than twenty calls? Answer: I went through the telephone book, and I would say yes.....(refer to transcript which will be furnished upon request).

Ms Wall lied through her teeth thereby violating the Canon Rules and the Massachusetts Attorney's Oath. She engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation of the facts. She engaged in conduct that prejudicial to the administration of justice.

Ms. Wall was fully aware in no way was she going to win this case as the facts and evidence along with the petitioner's witnesses the jury would clealy reach a verdict in favor of the petitioner. Therefore, the only thing left for her to do was to lie to the court and the court erred in believing her.

IX. CERTIORARI SHOULD BE GRANTED BECAUSE THE INFERIOR COURT ERRED IN LAW WHEN IT MISSED ITS MARK IN DISMISSING THE ACTION AND DISMISSING THE DEFENDANTS

The inferior court erred when it dismissed the action for failure to submit for a deposition.

November 29, 1995, petitioner did have her deposition taken.

The inferior court further based its decision on Valentine v. Museum of Modern Art 29F. 3d 47,48 (2d Cir. 1994) (app. p 23).

This case is not applicable to this action as this case deals with the plaintiff leaving the taking of his deposition, in the case before you is that the attorney stopped the taking of the deposition and evicted the petitioner from the building harassing her.

Ms. Wall continued this harassment by following the petitioner into the corridor and kept on harassing her up to the time she step into the elevator and until the elevator door closed.

The issue of providing a release so that the appellees could obtain records from D. P. Anderson & Associates.

Petitioner was unable to locate Ms. Wall's release, therefore she telephoned,Ms. Wall was not in the office. Petitioner left a message for her to furnish another copy of the release, however, there was no response from her.

Petitioner researched her papers and located the report and forwarded the report to her.

In, some actions when pro se litigants leave the taking of their depositions their cases are dismissed, however, when respondents attorney's stop the depositions nothing is done to them, it is pro se litigants that the actions are dismissed.

The facts clearly reveal that there are double standards (1) for attorneys and other for pro se

litigants.

Petitioner has not only been discriminated against because of her age, sex and religion, she is now being discriminated in the United States District Court because she is a pro se litigant.

Gorod's Constitutional Rights are being deprived because she is entitled to equal protection of the law and she is not receiving this protection.

The bottom line is that petitioner did go for her deposition and did furnish all documents to the respondents' attorney, therefore, the court erred in dismissing the action.

All named respondents in this action also were named in the EEOC Complaint that petitioner was wilfully discriminated against because of her age, sex and religion. In, EVANS v. SHERATION PARK HOTEL, ET AL503 F 2d 177 - the United States District Court entered judgment in favor of the plaintiff. Defendants were properly joined in this action. The court has jurisdiction in cases (such as the one before us now) where both employer and others named as parties to the action SEE, GIFFORD v. DIAGNOSTICS, ET AL 458 F. Supp. 463, employer and employees were all held liable.

All named respondents are Supervisors, Agents and Servants of the employer and are responsible for their acts and misconduct. It is not Company policy to threaten employees, it is not company policy to throw fists at employees, it is not company policy to use religious slurs against employees, it is not company policy to alter time sheets and travel expense vouchers.

Supervisory employees may be indivdually liable because he or she engages in discriminary practices that are clearly unrelated to performance of the supervisory employee's duties. See HENSON v. CITY OF DUNDEE 682 F2d 897, 910 "Subordinates might be personally liable on the ground that, by engaging in such conduct, the supervisor was acting personally and not on behalf of the employer."

All appellees are named in the EEOC Complaint which was filed prior to the petitioner's discharge and petitioner obtained permission to sue all named respondents

The petitioner received retaliation from the respondents and pettioner was informed by John Marra "you are going to pay for filing EEOC Complaint", when petitioner asked what the threat was he said, "we'll fire you" and that's exactly what they did.

In all of these cases PETTWAY v. AMERICAN CASE IRON PIPE CO., 411 F 2d 998 (5th Cir 1989) EEOC v. KALLIR PHILIPS, ROSS, INC.401 F Supp.66 (S.D. N.Y. 1975), BRADFORD v. SLOAM PAPER CO. 383 F. Supp 1157 (N.D. Als 1974) FRANCIS v. AMERICAN TEL & TEL CO.,55 F.R.D. 202 (D.D.C 1972) all plaintiff's in the foregoing cites were discharged because of filing a Complaint with the EEOC which was retaliation for filing a Complaint with the EEOC and all prevailed.

SEE ROGER ROGERS v. EEOC 454 F 2d 234 which states: "Title VII must be construed liberally in order to effecuate broad

remedial purpose of Congress to eliminate inconvenice, unfairness and humiliation of ethic discrimination Civil Right Act of 1964 § 701 et seq as amended 42 U.S.C.A §2000e et seq.

Based on the foregoing the inferior court erred in dismissing respondents, Nil Nordberg, Anna McKenon, John Marra and Doreen Gately from the action.

The fact, that the inferior court's decision is not published, fortifies, the fact, its decision is in error.

If, the decision was published employers would have used this case as a criteria to have workers' time sheets altered and not pay them for the time they worked, not pay them for their traveling expenses, and discharge them without paying them for vacation time they were entitled to, which would result in disastrous effects.

CONCLUSION

WHEREFORE, petitioner, Gertrude Gorod, respectfully prays that this Honorable Court grant this petition and issue a Writ of Certiorari and order this action be remand to the United States District Court for trial and immediate payment of all monies due the petitioner plus interest.

Respectfully submitted,
Gertrude Gorod

Gertrude Gorod
P.O. Box 856
Everett, Ma 02149
(781) 322-8223

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GERTRUDE GOROD, Plaintiff	)	
vs.	)	Civil Action No.
DEPARTMENT OF EMPLOYMENT AND TRAINING NILS NORDBERG, COMMISSIONER ANNA M. MCKEON JOHN MARRA DOREEN GATELY, Defendants	)	

COMPLAINT

Parties

1.) The plaintiff, Gertrude Gorod is a resident of Malden, county of Middlesex, Massachusetts and a citizen of the United States.

2.) The defendant, Department of Employment and Training is located in Boston, county of Suffolk, Massachusetts.

3.) The defendant, Nils L. Nordberg, Commissioner of the Department of Employment and Training is located in Boston, county of Suffolk, Massachusetts.

4.) The defendant, Anna M. McKeon is employed with the Department of Employment and Training is located in Boston, county of Suffolk, Massachusetts.

5). The defendant, John Marra is employed with

the Department of Employment and Training is located in Boston, county of Suffolk, Massachusetts.

6.) The defendant, Doreen Gately is employed with the Department of Employment and Training is located in Boston, county of Suffolk.

Jurisdiction

7.) This court has jurisdiction over the matter pursuant to Title VII of the Civil Rights Act of 1964, as amended, Sec 701, et seq. and the Age Discrimination in Employment Act Of 1967, as amended, Sec. 2, et sec. (29 U.S.C. c 621, et seq.).

Facts

8.) Plaintiff was continuously and wilfully discriminated against because of her age, sex and religion. She was denied promotions because of her age, sex and religion.

9.) Plaintiff was exposed to religious slurs.

10.) Plaintiff was wilfully discriminated against because of her age, sex and religion. She was not reimbursed for business traveling expenses, while all other employees in her department were reimbursed.

11.) Because of filing a charge with the Equal Employment Opportunity Commission, plaintiff suffered retaliation her job was taken away from her and given to a male younger than her. She was isolated in a room without any windows.

12.) Defendant Doreen Gately threw a fist in plaintiff's face, threaten her life and made slanderous religious remarks to her.

13.) Plaintiff was forced to report to work with a hired body guard.

14.) Plaintiff was wilfully discriminated against, because her work sheets were altered and she was not paid for hours she worked.

15.) Plaintiff was wilfully discriminated against because she had sick leave and vacation leave, however, when she was out sick and on vacation leave she was not paid.

16.) Plaintiff was wilfully discriminated against because of her age, sex and religion when she was fired after working for the Department of Employment and Training for Approximately thirty years.

17.) Plaintiff has approximately eight weeks vacation pay due to her at time she was fired. The vacation monies were not paid to her along with sick leave.

WHEREFORE, the plaintiff demands that she be reinstated in a safe work area away from the defendant, Doreen Gately in a promotion position.

All Back wages from time of threats made to the plaintiff in the amount of $50,400.00.

All vacation pay in the amount of $5,600.00.

All travel expenses in the amount of $672.36.

Hours worked and not paid for in the amount of $250.00.

Punitive damages in the amount of $95,000.00.

Reinstatement of Health and Life Insurance.
Interest and legal costs.

And for such other relief as this court deems just.

The plaintiff demands trial by jury.

s/Gertrude Gorod

EMPLOYEE PERFORMANCE EVALUATION

Gertrude C. Gorod
Disputed Claims Adjuster

PERFORMANCE FACTORS EVALUATED

Productivity	Amount of Work Performed schedule adherence.....EXCELLENT
Quality of Work	Accuracy, Thoroughness, Skill, Neatness, and (where applicable Care of Equipment and Supplies..EXCELLENT
Job Knowledge	Vocational Competence and (where applicable)..EXCELLENT Familiarity with the laws or rules, use of equipment and supplies, and problem solving the job area.....EXCELLENT
Attitude and Appearance	Initiative, Cooperation, appropriateness of Dress on the job. Appearance and where applicable Relationship with the Public.....EXCELLENT

Overall Rating..... EXCELLENT

S/ Lawrence A. Buckley
Supervisor
S/ James F. Sullivan
Assistant Director

App. 6

TO: GERTRUDE GOROD

Your presence is requested at the Central Operations Department's Award Breakfast.

DATE: Tuesday, August 30, 1988

TIME: 8:30 - 10:30 a.m.

PLACE: 6th Floor, Cafeteria Hurly Building

This is in recognition of all the fine work you do.

App. 7

CIVIL SERVICE LIST

DISPUTED CLAIMS ADJUSTER EXAM

1.	Avelino DeCastro	92.00	Temp. Claims Adjust.
2.	Gertrude Gorod	91.00	Perm. Claims Adjust. Perm. Disputed Claims Adjuster
3.	Richard Depathy	90.00	Perm. Claims Adjust.
4.	Frances Pangaggio	90.00	Perm. Claims Adjust.
5.	Marie Prescott	90.00	Perm. Claims Adjust.
6.	Robert Durand	89.00	Perm. Claims Adjust.
7.	Robert Huff	88.00	Perm. Claims Adjust.
8.	David Petruski	87.00	Perm. Senior Interviewer. Temp. Claims Adjust.
9.	Michael Boduch	87.00	Perm. Claims Adjust.
10.	Ruth Brenner	86.00	Perm. Principal Interviewer Temp. Claims Adjust.
11.	Robert Hazen	86.00	Perm. Senior Interviewer Temp. Claims Adjust.
12.	Fred Powell	86.00	Prov. DES Mgr. I

App. 8

COMMISSIONER NILS NORDBERG CORDIALLY INVITES
YOU TO ATTEND THE CELEBRATION OF THE RETIREES

Friday, June 19, 1992

3.p.m. - 5 p.m.

Hurley Building
6th floor cafeteria

App. 9

GRAPEVINE

DET NEWSLETTER

ARTICLE

AGENCY BIDS FOND ADIEU TO RETIREES

"On Friday, June 19th, DET held a party in honor of all the employees who are retiring the beginning of July, as well as those who had retired during the previous six months.

The celebration was held in the cafeteria on the sixth floor of the Hurley Building, a location convenient to many of the retirees and their co-workers who wanted to attend. Over 500 employees took part in the farewell event.

Many people, including the Commissioner, thanked the retirees for their valuable contributions to DET over the years and wished them well in their future endeavors".

App. 10

February 27, 1990

Gertrude Gorod
371 Bryant Street
Malden, Ma 02148

RE: Vacancy Series 89-38
Review Examiner I, Hearing Department #L3

Dear Ms. Gorod:

Thank you for your interest in and your application for the positions of Review Examiner I, in our Hearings Department.

The Department was fortunate to have received resumes from a number of qualified candidates for these positions. After much deliberation, we have chosen the candidates who best matched the needs of our agency at this time. The positions were filled by Robert Boronski, Dorothy Sperounis, and Kathleen Griffin, Della Penna.

Regretfully we are unable to further consider your application for these positions. However, we encourage you to consider and apply for other opportunities as they become available.

Again, thank you for your interest in state service. Best wishes for success in your continuing career.

Sincerely,
S/Penny Outlaw
Director of
Personnel *

***ON THE REVERSE SIDE OF THIS LETTER WAS WRITTEN "JEW".**

May 22, 1990

James French, Commissioner
Department of Employment and Training
Charles F. Hurley Building
19 Staniford Street
Boston, Ma 02114

Dear Commissioner French:

The Anti-Defamation League of B'nai B'rith is an organization dedicated to fighting anti-Semitism and prejudice. A matter relevant to the work of our organization merits your attention and, I believe your concern.

Ms. Gertrude Gorod works in the Department of Employment and Training. Upon applying for a position as a Review Examiner I, in the Hearing Department, she received a letter of rejection from Penny Outlaw, Director of Personnel. To Ms. Gorod's surprise, this letter from Ms.Outlaw had the word "Jew" written on the last fold of the paper, inside the sealed envelope. Enclosed is a photocopy of the front and back of the rejection letter. The word "Jew" was the first thing Ms. Gorod saw when she opened the letter of rejection. This incident of vandalism is our first concern.

Moreover, Ms. Gorod has repeatedly applied for promotion within the Department and has been rejected time and time again. The reference to Ms. Gorod being Jewish on a letter of rejection for a position she has never successfully obtained leads us to wonder, along with her, if these rejections are due to her being Jewish. Discrimination in any form is intolerable in the workplace. A complete investigation seems necessary.

I look forward to your reply on Ms. Gorod's case.

Sincerly,
Sally Greenberg
Civil Rights Counsel

SG/rgs
Enclosure

App. 13

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF EMPLOYMENT AND TRAINING

November 21, 1989

Gertrude Gorod
371 Bryant Street
Malden, Ma 02148

RE: Vacancy Series 89-31
Disputed Claims Adjuster, Central Region

Dear Ms. Gorod:

Thank you for your interest in and your application for the position of Disputed Claims Adjuster in our Central Region.

The Department was fortunate to have received resumes from a number of qualified candidates for this position. After much deliberation, we have chosen the candidate who best matched the needs of our agency at this time. The position was filled by Robert Boronski.

Regretfully, we are unable to further consider your application for this position. However, we encourage you to consider and apply for other opportunities as they become available.

Again, thank you for your interest in state service. Best wishes for succes in your continuing career.

Sincerely,
s/ Deborah Mayo

WEEKLY TIME DISTRIBUTION AND ATTENDANCE RECORD

Employee name Gertrude C. Gorod

Week Ending June 20, 1992

June 15	worked 7.5 hours
June 16	worked 7.5 hours
June 17	holiday paid for 7.5 hours
June 18	worked 7.5 hours
June 19	worked 6.00 hours*

*Went 1.5 hours to Retirees Party

SEE App. pages 8 & 9

After Gertrude c. Gorod signed the time sheet, time sheet was changed to read 4 hours leave without pay without Gorod's knowledge or consent.

Gorod was only aware of the change when she was not paid for the hours that she worked.

WEEKLY Time Distribution AND ATTENDANCE RECORD

Employee name Gertrude C. Gorod

Week Ending June 27, 1992

June 22	Vacation Time	7.5 hours*
June 23	Worked	7.5 hours
June 24	Worked	7.5 hours**
June 25	Worked	7.5 hours***
June 26	Worked	7.5 hours****

After Gertrude C. Gorod signed the time sheet time sheet was changed.

* Vacation time was changed to sick time

** Hours worked was changed to leave without pay a half hour.

*** Hours worked was changed to leave without pay four and half hours.

.... Hours worked was changed to leave without pay for 4 hours.

Gorod was only aware of the change when she was not paid for the hours that she worked.

App. 16

WEEKLY TIME DISTRIBUTION AND ATTENDANCE Record

Employee name Gertrude C. Gorod

Week Ending July 4, 1992

June 29 Sick leave 7.5 hours*

June 30 Sick leave 4 hours *

*After Gertrude C. Gorod signed the time sheet, time sheet was changed to read leave without pay, without Gorod's knowledge or consent.

Gorod was only aware of the change when she did not receive a check for that week.

TRAVEL EXPENSE VOUCHER

Date	Description	Total Expenses
7-18-89	Boston to Framingham & Ret.	11.00
7-19-89	Boston to Chelsea & Ret.	1.32
7-24-89	Boston to Waltham & Ret.	5.28
7-25-89	Boston to Norwood & Ret.	7.48
7-26-89	Boston to Narlboro & Ret.	14.08
7-27-89	Boston to Milford & Ret.	15.40
7-28-89	Malden to Malden & Ret.	1.10
7-31-89	Malden to Chelsea & Ret.	1.32
	TOTAL	$56.98*

***GOROD WAS NOT PAID HER TRAVELING EXPENSES**

8- 1-89	Boston to Malboro & Ret.	14.08
8- 4-89	Boston to Framingham & Ret.	11.00
8- 7-89	Boston to Chelsea & Ret.	1.32
8- 8-89	Boston to Norwood & Ret.	7.48
8- 9-89	Boston to Marlboro & Ret.	14.08
8-10-89	Boston to Framingham & Ret.	11.00
8-11-89	Boston to Milford & Ret.	15.40
8-14-89	Boston to Waltham & Ret.	5.28
8-15-89	Boston to Framingham & Ret.	11.00
8-16-89	Boston to Marlboro & Ret.	14.08
8-17-89	Boston to Woburn & Ret.	6.16
8-18-89	Boston to Milford & Ret.	15.40
	Milford to Dudley	6.60
	Dudley to Boston	14.96
8-22-89	Boston to Framingham & Ret.	11.00
8-23-89	Malden to Malden & Ret.	1.32
8-24-89	Malden to Chelsea & Ret.	1.32
8-28-89	Boston to Framingham & Ret.	11.00
8-29-89	Boston to Norwood & Ret.	7.48
8-30-89	Boston To Marlboro & Ret.	14.08
8-31-89	Boston to Milford & Return	15.40
	TOTAL	$209.44*

***GOROD WAS NOT PAID HER TRAVELING EXPENSES**

TRAVEL EXPENSE VOUCHER

Date	Description	Total Expenses
9- 1-89	Boston to Waltham & Ret.	5.28
9- 5-89	Boston to Norwood & Ret.	7.48
9- 6-89	Boston to Framingham & Ret.	11.00
9- 8-89	Boston to Cambridge & Ret.	2.20
9-11-89	Boston to Milford & Ret.	15.40
9-12-89	Malden to Chelsea & Ret.	1.32
9-13-89	Boston to Framingham & Ret.	11.00
9-14-89	Boston to Woburn & Ret.	6.16
9-20-89	Boston to Framingham & Ret.	11.00
9-22-89	Boston to Marlboro & Ret.	14.08
9-25-89	Boston to Norwood & Ret.	7.48
9-26-89	Boston to Woburn & Ret.	6.16
9-28-89	Boston to Marlboro & Ret.	14.08
9-29-89	Boston to Waltham & Ret.	5.28
	TOTAL	$117.92*

***GOROD WAS NOT PAID FOR HER TRAVELING EXPENSES**

10- 2-89	Boston to Milford & Ret.	15.40
10- 4-89	Boston to Framingham & Ret.	11.00
10- 6-89	Boston to Marlboro & Ret.	14.08
10-10-89	Boston to Woburn & Ret.	6.16
10-11-89	Boston to Framingham & Ret.	11.00
10-12-89	Boston to Worchester & Ret.	22.00
10-16-89	Boston to Cambridge & Ret.	2.20
10-17-89	Boston to Marlboro & Ret.	14.08
10-19-89	Boston to Framingham & Ret.	11.00
10-20-89	Boston to Waltham & Ret.	5.28
10-23-89	Boston to Norwood & Ret.	7.48
10-24-89	Boston to Milford & Ret.	15.40
10-25-89	Boston to Waltham & Ret.	5.28
10-26-89	Boston to Worcester & Ret.	22.00
10-27-89	Boston to Framinham & Ret.	11.00
	TOTAL	$173.36*

***GOROD WAS NOT PAID FOR HER TRAVELING EXPENSES**

TRAVEL EXPENSE VOUCHER

Date	Description	Total Expenses
11- 1-89	Boston to Cambridge & Ret.	2.20
11- 3-89	Boston to Framingham & Ret.	11.00
11- 6-89	Malden to Chelsea & Ret.	1.32
	TOTAL	$14.52*

***GOROD WAS NOT PAID FOR HER TRAVELING EXPENSES**

6- 8-92	Boston to Needham & Ret.	6.60
6- 9-92	Boston to Needham & Ret.	6.60
6-10-92	Boston to Needham & Ret.	6.60
6-11-92	Boston to Needham & Ret.	6.60
6-12-92	Boston to Needham & Ret.	6.60
6-15-92	Boston to Needham & Ret.	6.60
6-16-92	Boston to Needham & Ret.	6.60
6-18-92	Boston to Needham & Ret.	6.60
6-19-92	Boston to Needham & Ret.	6.60
	TOTAL	$59.40*

***GOROD'S TRAVEL EXPENSE VOUCHER WAS ALTERED AFTER GOROD SIGNED THE DOCUMENT SHE WAS ONLY PAID $47.52.**

PAYROLL CHECK

COMMONWEALTH OF MASSACHUSETTS

STATE TREASURER

12 09 89

Pay To The Order Of

Gertrude C. Gorod

Check Amount

Dollars Cents

$********** 67

SHAWMUT ShawmutArlington Trust Company

S/Robert O. Crane
Treasurer and Receiver General

App. 21

9/18/92

DR. JOHN G. GOULDING

To whom It May Concern:

Because of her emotional and mental stressful reaction to present working environment I have advised Trudy Gorod to stay out of work until the situation is resolved.

S/ Dr. John G. Goulding

(NOT FOR PUBLICATION)

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 97-1115

GERTRUDE GOROD,

Plaintiff, Appellant,

v.

DEPARTMENT OF EMPLOYMENT AND TRAINING, ET AL.,

Defendants, Appellees.

APPEALS FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

(Hon. Robert B. Collings, U.S. Magistrate Judge)

Before

Torruella, Chief Judge
Stahl and Lynch, Circuit Judges.

Gertrude Gorod, on brief pro se.
Scott Harshbarger, Attorney General,
Richard H. Spicer and
Lucy A. Wall, Assistant Attorneys General,
on brief for appellees.

Per Curiam. Pro se plaintiff Gertrude Gorod commenced this action against the Department of Employment and Training (DET) and several employees seeking relief under Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e and the Age Discrimination in Employment Act (ADEA). 29 U.S.C. § 621 et seq.[1] The district court dismissed plaintiff's claims against the DET as a sanction for failing to comply with numerous discovery orders. Plaintiff's claims against the other defendants had been previously dismissed on the ground that employees cannot be liable in their individual capacities under Title VII or the ADEA.

Having thoroughly reviewed the record and the parties' briefs on appeal, we conclude that the district court did not abuse its discretion in dismissing plaintiff's claims against the DET. See Valentine v. Museum of Modern Art, 29 F. 3d 47, 48 (2d Cir. 1994). We need not decide whether the court's ruling dismissing the individual defendants was correct, for it is clear that this ruling not been entered, these claims would have been dismissed along the plaintiff's claims against the DET. Plaintiff's persistent refusals to comply with the district court's discovery orders provides independent justification for the dismissal of her claims against the individual defendants. Plaintiff's contention that the

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[1]The individual defendants are Nils Nordberg, Doreen Gately, Anna McKeon and John Marra.

district court erred in denying her motions to sanction defense counsel is wholly meritless.

Accordingly, the judgment of the district court is summarily affirmed.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Gertrude Gorod, Civil Action No. 93-12446 MLW

V. (Collings, U.S.M.J.)

Department of Employment
and Training,
Nils Nordberg, Commissioner,
Anna M. McKeon,
John Marra,
Doreen Gately,

ORDER OF Dismissal

Collings, U.S.M.J.

The plaintiff, Gertrude Gorod, has failed to comply with the Amended Second Further Order on Defendant's Motion To Compel Deposition. At no time did she seek to have the Court amend that Order in any way. She has also failed to comply with further order. The file is replete with the numerous chances the Court has given Ms. Gorod to comply with the Order that she submit to the taking her deposition and provide a release so that the defendants could obtain records from D.P. Anderson & Associates. It is not necessary to recount them here.

Accordingly, it is ordered that all claims brought by Ms. Gorod in the above-styled cause which have not previously been dismissed be, and the same hereby are dismissed.

November 27, 1996 S/ Robert B. Collings
United States Maistrate Judge